

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA,

Case No. 06-CR-320

Plaintiff,

v.

DAVID R. OLOFSON,

Defendant

NOTICE OF MOTION AND MOTION TO SUPPRESS DEFENDANT'S
STATEMENT AND MOTION TO ALLOW LATE FILING OF MOTION TO
SUPPRESS

Please take notice that defendant, David R. Olofson, by Rose & Rose by Christopher W. Rose, his attorney, will move this court for the relief requested in the annexed motion before the Honorable J. P. Stadtmueller, U. S. District Court for the Eastern District of Wisconsin, 517 East Wisconsin Avenue, Milwaukee, Wisconsin on the 15th day of March, 2007 at 1:30 p.m. or as soon thereafter as counsel can be heard.

Dated this 13th day of March, 2007.

ROSE & ROSE
Attorneys for Defendant

s/ CHRISTOPHER W. ROSE
CHRISTOPHER W. ROSE
State Bar No. 1032478

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MOTION TO SUPPRESS DEFENDANT'S STATEMENT AND MOTION TO
ALLOW LATE FILING OF DEFENDANT'S MOTION TO SUPPRESS

The defendant, David R. Olofson, by Rose & Rose by Christopher W. Rose, his attorney, will move this court for an order allowing the belated filing of the defendant's motion to suppress his statement in the above entitled matter pursuant to Federal Rule of Criminal Procedure, Rule 12 (b)(3)(c), of the Federal Rules of Criminal Procedure. Further, pursuant to Federal Rule of Criminal Procedure, Rule 12(e), a Court may grant relief from the waiver of a motion not raised at pretrial for good cause shown. See Federal Rule of Criminal Procedure, Rule 12(e). Pursuant to the affidavit of David R. Olofson, specifically Paragraph 8, Mr. Olofson has shown good cause for the belated filing of the motion.

Further, the motion for a pretrial hearing to determine either the voluntariness of a statement made by the defendant and/or whether or not a defendant was advised of their constitutional rights prior to making such statement was granted to the extent that, if the government intended to offer any statements of the defendant in evidence at trial, the court would hold a suppression hearing on the scheduled trial date immediately before selection of the jury. U.S. v. Archer, 355 F.Supp. 981, D.C.N.Y 1972. Here, the court could hold a brief motion, pretrial, prior to the selection of the jury to determine if Miranda was complied with. Mr. Olofson has stated in his motion that Miranda was not complied with in the above matter. Pursuant to Miranda v. Arizona, 384 U.S. 436, 16 L.Ed. 2d 694, 86 S.Ct.1602 (1966), the defendant, David R. Olofson, moves this court for an order to suppress his statement in the above matter as Miranda was not complied with

as Mr. Olofson was not advised of his rights while in in an in-custody setting (See Affidavit of David R. Olofson attached to this motion.

Dated this 13th day of March, 2007.

ROSE & ROSE
Attorneys for Defendant

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